

By: Nelson, et al.
(Patrick)

S.B. No. 469

Substitute the following for S.B. No. 469:

By: Phillips

C.S.S.B. No. 469

A BILL TO BE ENTITLED

AN ACT

relating to the collection of unpaid tolls by a regional tollway authority.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 366.003, Transportation Code, is amended by adding Subdivision (10-a) to read as follows:

(10-a) "Toll assessment facility" means a location on a turnpike project where a vehicle that is driven or towed through the facility is assessed a toll for the use of the project.

SECTION 2. Section 366.178, Transportation Code, is amended by amending Subsections (a), (b), (c), (d), (e), (f), (g), (i), and (i-1) and adding Subsections (b-1), (b-2), (b-3), (b-4), (d-1), (d-2), and (f-1) to read as follows:

(a) A motor vehicle other than an authorized emergency vehicle, as defined by Section 541.201, that passes through a toll assessment [~~collection~~] facility, whether driven or towed, shall pay the proper toll. The exemption from payment of a toll for an authorized emergency vehicle applies regardless of whether the vehicle is:

- (1) responding to an emergency;
- (2) displaying a flashing light; or
- (3) marked as a police or emergency vehicle.

(b) A person who fails or refuses to pay a toll provided for the use of a project is liable for a fine not to exceed \$250, plus

1 any [~~an~~] administrative fees [~~fee~~] incurred in connection with the
2 violation.

3 (b-1) As an alternative to requiring payment of a toll at
4 the time a vehicle is driven or towed through a toll assessment
5 facility, the authority shall use video recordings, photography,
6 electronic data, transponders, or other tolling methods to permit
7 the registered owner of the nonpaying vehicle to pay the toll at a
8 later date.

9 (b-2) If the authority does not collect the proper toll at
10 the time a vehicle is driven or towed through a toll assessment
11 facility, the authority shall send an invoice by first class mail to
12 the registered owner of the vehicle. The invoice may include one or
13 more tolls assessed by the authority for use of the project by the
14 nonpaying vehicle and must specify the date by which the toll or
15 tolls must be paid. Except as provided by Subsection (b-3), the
16 registered owner shall pay the unpaid tolls included in the invoice
17 not later than the 30th day after the date the invoice is mailed.

18 (b-3) If the address to which the invoice issued under
19 Subsection (b-2) is mailed to the registered owner is determined to
20 be incorrect, the registered owner shall pay the invoice not later
21 than the 30th day after the date the invoice is mailed to the
22 correct address.

23 (b-4) If the registered owner of the nonpaying vehicle fails
24 to pay the unpaid tolls included in the invoice mailed under
25 Subsection (b-2) or (b-3) by the date specified in the invoice, the
26 authority shall send the first notice of nonpayment by first class
27 mail to the registered owner of the nonpaying vehicle as provided by

1 Subsection (d).

2 (c) On [~~If a person fails to pay the proper toll.~~

3 [~~(1) on~~] issuance of the first [~~a~~] notice of
4 nonpayment, the registered owner of the nonpaying vehicle shall pay
5 both the unpaid tolls included in the invoice and an [~~the proper~~
6 ~~toll and the~~] administrative fee. The authority may charge only one
7 administrative fee of not more than \$25 for the first notice of
8 nonpayment that is sent to the registered owner of the nonpaying
9 vehicle [~~, and~~

10 [~~(2) an authority may charge an administrative fee of~~
11 ~~not more than \$100 to recover the cost of collecting the unpaid~~
12 ~~toll~~].

13 (d) Unless an authority requires additional time to send a
14 notice of nonpayment because of events outside the authority's
15 reasonable control, the authority shall send the first notice of
16 nonpayment not later than the 30th day after the date the 30-day
17 period expires for the registered owner to pay the invoice issued
18 under Subsection (b-2) or (b-3). If an authority requires
19 additional time as provided by this subsection, the authority must
20 send the notice not later than the 60th day after the date the
21 30-day period expires for the registered owner to pay the invoice
22 issued under Subsection (b-2) or (b-3). The first notice [~~Notice~~]
23 of nonpayment [~~under Subsection (c)(1)~~] shall [~~be sent by~~
24 ~~first-class mail and may not~~] require payment of the unpaid tolls
25 included in the invoice [~~the proper toll~~] and the administrative
26 fee before the 30th day after the date the first notice of
27 nonpayment is mailed [~~. The registered owner shall pay a separate~~

1 ~~toll and administrative fee for each nonpayment]~~.

2 (d-1) If the registered owner of the nonpaying vehicle fails
3 to pay the unpaid tolls and the administrative fee by the date
4 specified in the first notice of nonpayment, the authority shall
5 send a second notice of nonpayment by first class mail to the
6 registered owner of the nonpaying vehicle. The second notice of
7 nonpayment must specify the date by which payment must be made and
8 may require payment of:

9 (1) the unpaid tolls and administrative fee included
10 in the first notice of nonpayment; and

11 (2) an additional administrative fee of not more than
12 \$25 for each unpaid toll included in the notice, not to exceed a
13 total of \$200.

14 (d-2) If the registered owner of the nonpaying vehicle fails
15 to pay the amount included in the second notice of nonpayment by the
16 date specified in that notice, the authority shall send a third
17 notice of nonpayment by first class mail to the registered owner of
18 the nonpaying vehicle. The third notice of nonpayment must specify
19 the date by which payment must be made and may require payment of:

20 (1) the amount included in the second notice of
21 nonpayment; and

22 (2) any third-party collection service fees incurred
23 by the authority.

24 (e) If the registered owner of the vehicle fails to pay the
25 amount included in the third notice of nonpayment by the date
26 [~~proper toll and administrative fee in the time~~] specified in [by]
27 the notice, the owner may [~~shall~~] be cited as for other traffic

1 violations as provided by law, and the owner shall pay a fine of not
2 more than \$250 for each nonpayment of a toll.

3 (f) Except as provided by Subsection (f-1), in [In] the
4 prosecution of a violation for nonpayment, proof that the vehicle
5 passed through a toll assessment [collection] facility and that the
6 amount included in the third notice of nonpayment was not paid
7 before the date specified in the notice, [without payment of the
8 proper toll] together with proof that the defendant was the
9 registered owner or the driver of the vehicle when the unpaid toll
10 was assessed [failure to pay occurred], establishes the nonpayment
11 of the registered owner. The proof may be by testimony of a peace
12 officer or authority employee, video surveillance, or any other
13 reasonable evidence, including a copy of the rental, lease, or
14 other contract document or the electronic data provided to the
15 authority under Subsection (i) that shows the defendant was the
16 lessee of the vehicle when the unpaid toll was assessed [underlying
17 event of nonpayment occurred].

18 (f-1) Nonpayment by the registered owner of the vehicle may
19 be established by:

20 (1) a copy of a written agreement between the
21 authority and the registered owner for the payment of unpaid tolls
22 and administrative fees; and

23 (2) evidence that the registered owner is in default
24 under the agreement.

25 (g) The court of the local jurisdiction in which the unpaid
26 toll was assessed [violation occurs] may assess and collect the
27 fine in addition to any court costs. The court shall collect the

1 unpaid tolls, [proper toll and] administrative fees, and
2 third-party collection service fees incurred by the authority on or
3 before the date the fines and court costs are collected by the court
4 [fee] and forward the tolls [toll] and fees [fee] to the authority.
5 Payment of the unpaid tolls, administrative fees, and third-party
6 collection service fees by the registered owner may not be waived by
7 the court unless the court finds that the registered owner of the
8 vehicle is indigent.

9 (i) A registered owner who is the lessor of a vehicle for
10 which an invoice is mailed under Subsection (b-2) or (b-3) [a notice
11 of nonpayment has been issued] is not liable if, not later than the
12 30th day after the date the invoice [notice of nonpayment] is
13 mailed, the registered owner provides to the authority:

14 (1) a copy of the rental, lease, or other contract
15 document covering the vehicle on the date the unpaid toll was
16 assessed [of the nonpayment], with the name and address of the
17 lessee clearly legible; or

18 (2) electronic data, other than a photocopy or scan of
19 a rental or lease contract, that contains the information required
20 under Sections 521.460(c)(1), (2), and (3) covering the vehicle on
21 the date the unpaid toll was assessed [of the nonpayment] under this
22 section.

23 (i-1) If the lessor timely provides the required
24 information under Subsection (i), the lessee of the vehicle on the
25 date the unpaid toll was assessed [of the violation] is considered
26 to be the registered owner of the vehicle for purposes of this
27 section, and the authority shall follow the procedures provided by

1 this section as if the lessee were the registered owner of the
2 vehicle, including sending an invoice~~]. The lessee is subject to~~
3 ~~prosecution for failure to pay the proper toll if the authority~~
4 ~~sends a notice of nonpayment]~~ to the lessee by first-class mail not
5 later than the 30th day after the date of the receipt of the
6 information from the lessor.

7 SECTION 3. Section 366.178, Transportation Code, as amended
8 by this Act, applies only to a vehicle that is driven or towed
9 through a toll assessment facility, as defined by Section 366.003,
10 Transportation Code, as amended by this Act, on or after the
11 effective date of this Act. A toll that is assessed before the
12 effective date of this Act is governed by the law in effect on the
13 date the vehicle was driven or towed through a toll assessment
14 facility, and the former law is continued in effect for that
15 purpose.

16 SECTION 4. This Act takes effect September 1, 2011.